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RUEHKA/AMEMBASSY DHAKA PRIORITY 9458  
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 2354  
RUEHLO/AMEMBASSY LONDON PRIORITY 3761  
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 9438  
RUEHGV/USMISSION GENEVA PRIORITY 1094  
RHEFDIA/DIA WASHDC PRIORITY  
RUCNDT/USMISSION USUN NEW YORK PRIORITY 1740  
RHHMUNA/CDR USPACOM HONOLULU HI PRIORITY  
RUEKJCS/SECDEF WASHDC PRIORITY  
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TAGS: [PHUM](#) [PGOV](#) [PTER](#) [MASS](#) [NP](#)  
SUBJECT: RNA HUMAN RIGHTS CELL WORKING

Classified By: Ambassador James F. Moriarty. Reasons 1.4 (b/d).

Summary

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11. (C) In a March 24 meeting, Col. Dharma Baniya, head of the Human Rights Cell of the Royal Nepalese Army (RNA), and Brig. Gen. B.A. Kumar Sharma, Judge Advocate General, told Emboffs that the RNA was working hard to improve its human rights record. Baniya gave a point by point reply to the U.S. State Department's 2005 Human Rights Report on Nepal, thanking the U.S. for noting Maoist abuses, and admitting that the RNA needed to do more in some areas. Baniya stated that the RNA had resolved 74 percent of approximately 500 disappearance cases to date and was working to resolve more. Sharma stressed that the RNA investigated and punished RNA human rights offenders, and barred alleged offenders and those found guilty from participating in UN Peacekeeping Missions. End Summary.

RNA Resolved 74 Percent of Disappearance Claims  
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12. (C) On March 24, Col. Dharma Baniya, head of the RNA Human Rights Cell, and Brig. Gen. B.A. Kumar Sharma, RNA Judge Advocate General, told Emboffs that the RNA was more aware and respectful of human rights than in the past and was improving its performance on investigations into alleged abuses. Baniya highlighted that, to date, the RNA had sent human rights teams to 33 districts to investigate disappearance allegations and had resolved 74 percent of the approximately 500 cases submitted by human rights organizations, including the United Nations Office of the High Commissioner for Human Rights (OHCHR), the Nepal Human Rights Commission (NHRC), and local human rights NGOs such as Informal Sector Service Center (INSEC), even though the RNA did not recognize INSEC as a neutral organization. As teams went to additional districts, Baniya hoped the RNA would be able to resolve a total of 80 percent of cases within the next few months. He noted that the RNA had no outstanding habeas corpus claims, and had recently reached an agreement with the International Committee of the Red Cross (ICRC), which subsequently resumed unannounced visits to RNA

detention facilities. He added that the ICRC was helping to train RNA members, and that respect for human rights was a separate paragraph in all RNA operational orders. Baniya stated that the RNA would soon appoint an officer of Brigadier General rank to lead the cell at the start of Nepal's next fiscal year (in July). Baniya explained that the RNA had 26 trained human rights officers working at the division level, and the RNA was working to train enough officers to have one in each brigade. Emboffs stressed the symbolic and operational importance of appointing a flag level officer to head the cell as soon as possible. Emboffs also reviewed the differences between Leahy human rights conditions and the 2005 Human Rights Report and encouraged the RNA to meet the Leahy Amendment conditions.

#### RNA Investigates and Punishes HR Violators

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13. (C) Sharma stressed that the RNA investigated and punished RNA human rights offenders. He explained that the RNA gave human rights training to all RNA soldiers and officers, and that RNA policy was to respect human rights, unlike the Maoists who had no human rights standards. Acknowledging that some RNA soldiers had killed people in custody, Baniya thanked the U.S. for reporting in the 2005 Human Rights Report that the RNA had investigated and prosecuted individuals in the Ramechhap and Maina Sunuwar cases. He also thanked the U.S. for recognizing that the RNA gave OHCHR and NHRC unannounced access to detention facilities. While noting that prison conditions were not good, he disputed reports that torture was systematic. He unequivocally stated that torture was not RNA policy and that the RNA investigated and prosecuted torture allegations, unlike Maoists who routinely tortured and killed with impunity. Sharma noted that confidentiality provisions in military law prevented the RNA from turning over investigation and court-martial information to anyone, including not only OHCHR and NHRC, but also those in the military, who had no need to know. Baniya explained that the RNA summarized information and gave the gist to OHCHR and NHRC when they requested confidential information.

#### Maoists Do Not Play By the Rules

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14. (C) Baniya asserted that the fight against the Maoists was not a conventional war. Thus the RNA needed some allowances in rural areas when the RNA had to act quickly on timely intelligence and only informed the Chief District Officer after the fact. He explained that the lack of security, communication equipment and roads often made it difficult for civilian authorities to issue timely warrants in rural areas. He also noted that the Maoists frequently attacked jails, and, while it was RNA policy to hand over all detainees to the police, the police often lacked the capacity to deal with detainees and asked the RNA for assistance. Defending the operational necessity of the RNA sometimes operating in civilian attire, Baniya again stressed that Maoists did not play by the rules. Sharma noted the difficulty in investigating claims that the RNA killed fleeing Maoists or unarmed people, especially if a Maoist had just thrown a socket bomb, leaving no weapon next to the body. He explained that Maoists often had more than one socket bomb, and it was difficult for a soldier to know if a Maoist was fleeing or intended to use a socket bomb kept in reserve. Baniya thanked the U.S. for reporting Maoist use of child soldiers, stressing that unlike the Maoists, the RNA did not use child informants or soldiers. All RNA recruits were 18 years of age or older. He also commented that the RNA was working to improve opportunities for women and ethnic groups, noting that there were currently 68 female officers in training. He also claimed that Maoists had displaced over 350 families of soldiers.

#### Restating UN Peacekeeping Screening

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15. (C) Sharma restated the RNA's screening policy for sending

soldiers to participate in UN peacekeeping missions. He noted that the RNA investigated all human rights allegations.

All soldiers under investigation were barred from participating in UN Peacekeeping until their cases were resolved. The RNA also barred all soldiers found guilty of human rights abuses from participating in UN Peacekeeping missions.

#### RNA Acting According to Constitution

¶6. (C) Sharma disputed the assertion that the RNA sometimes acted independently of civilian oversight, contending that the RNA always acted under civilian direction as stipulated in Nepal's constitution. Baniya claimed that the RNA did not support vigilante groups, though Emboff pushed back that human rights groups had presented evidence that the RNA-supported Peace and Development Committees sometimes acted as vigilante groups. Baniya countered that Peace and Development groups were not vigilantes but were acting in self defense, creating space for local development.

#### Comment

¶7. (C) Col. Baniya had obviously read and studied our Human Rights Report with great care and gave an impressive point by point reply. However, while working to stress the importance of respecting human rights in the RNA and of resolving disappearance allegations, the RNA needs to do more to address ongoing concerns regarding impunity, torture, military operations in civilian dress, and support of vigilante groups.

MORIARTY